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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,105	04/03/2001	Antoon Walter Waldeyer	WALD3001/JEK	9304
<div>7590 04/20/2007 BACON &amp; THOMAS, LLP 625 SLATERS LANE 4TH FLOOR ALEXANDRIA, VA 22214-1176</div>			<div>EXAMINER JANVIER, JEAN D</div>	
			<div>ART UNIT 3622</div>	<div>PAPER NUMBER</div>
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/20/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/824,105

Applicant(s)

WALDEYER, ANTOON WALTER

Examiner

Jean Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

### **Response To Applicant's Arguments**

First, the Examiner has reviewed the Applicant's response and does not find the related arguments to be persuasive. For example, the Applicant describes, on page 12 of the current response, a debit and credit scenario, which does not address the Examiner's concern.

Furthermore, the Applicant states on page 13 that "a patent need not teach, and preferably omits what is well known in the art. Here, the Examiner does not understand the relevance of the latter point. Additionally, contrary to the Applicant's contention, "raising funds" is not equivalent to "acquiring funds". For instance, going to an ATM machine to withdraw some cash therefrom is equal to "acquiring funds", but not "raising funds". On the other hand, "Raising funds" requires performing an action, such as selling products, asking for donations in order to accumulate or raise necessary funds for a particular cause, as known in the art.

Second, the Applicant's arguments regarding the restriction requirement are not persuasive for the same rationale previously cited and the requirement has herein been made final. In general, the Applicant's remarks are fully addressed in the Office Action.

Therefore, the Applicant's request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response since the Applicant's arguments as herein presented are not plausible and thus, the current **Office Action has been made Final.**

### **General Comments**

In the claimed invention (e.g. claim 1), as best understood, the originator of the phone call or the caller plays no role in directly contributing any monetary value to the receiver's fund raising activities since the agreement is between the data processing facility (such as a phone

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service provider) and the receiver (charitable organization), wherein the data processing agrees to donate to the receiver a portion of the amount or price charged to the caller for making the phone call to the receiver. Furthermore, although the relationship between the data processing facility and the receiver (charity) may be understood, however, it is unclear why the caller or call originator would choose to call the receiver and that call, and no other calls to other parties, will cause the data processing facility to give a portion of the price charged to the caller to the receiver receiving the phone call in the first place. Here, the rationale or the incentive for the caller to call the receiver remains, after all, unsettled.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziarno, US 2001/0001855.

As per claims 1-3 and 18, Ziarno discloses a method of and a system for conducting a fund-raising over a computer network, such as the Internet, while simplifying and inducing the giving of monetary contributions by a plurality of contributors or donors. The system is configured to solicit the making of monetary contributions by the plurality of contributors or donors via their computers and to receive data comprising of contributions records from the remote contributors over the computer network. Here, contributions include political

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contributions, charitable contributions and religious contributions. The soliciting or requests for monetary contribution is performed via multimedia communicated to prospective contributors' computers connected to the computer network (See abstract).

The present system provides a fund-raising network, system and method for simplifying and inducing the giving of monetary contributions by a multiplicity of prospective contributors. The system and network include a computer with communication circuitry for communicating over a computer network requests soliciting the making of monetary contributions to a plurality of remote prospective contributors' computers; and, a means for receiving contributions from the remote contributors' respective computers communicated over a computer network. The contributions data, received from a prospective contributor, include the prospective or **respective contributor's cardholder information (credit card, debit card data) correlated to numeric contribution amounts, cybercash**, information representative of electronic currency, and combinations thereof (bottom of page 1, paragraph [0010]; page 5, paragraphs [0054] and [0055]).

A typical solicitation or prospective contributor's e-mail contribution request or has a display option or icon that represents a specific denomination amount, e.g. five dollars (\$5) or ten dollars (\$10). The specific denomination amount appearing on a respective contributor's screen is of an order to induce the making of a contribution in a variant (allowing the prospective donor to choose from a variety of options representing selection of different action-specific amounts....-page 6: paragraphs [0059] and [0060]; page 8: paragraph [0078]).

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As per claims 1-3 and 18, Ziarno does not disclose a system, wherein a contributor or donor uses a telephone set, instead of or in addition to a computer, to participate in the fund-raising activities, wherein a portion of the price charged to the contributor when making a phone call to a third party or call receiver, including a charitable organization, is donated to the third party or receiver.

However, it is common practice in the art to use a wired or wireless telephone to participate in a fund-raising activity, which raises money on behalf of a specific non-profit organization. For example, a Public Broadcasting Station (PBS), such as a television station, usually conducts an annual fund-raising by soliciting the making of monetary donations from its viewers, who use their telephones to respond by donating a specific monetary value set by the station or a value of their choosing. The donors or contributors receive thank-you gifts from the station or from other third parties for making donations.

Moreover, it is common practice in the industry for businesses or retailers (providers), such as **Giant Food**, to encourage their customers to support their stores by donating a certain percentage of the customers' transaction amount to schools or non-profit organizations previously selected. In addition, advertisers, sponsors or service providers periodically, especially after a disaster such as a flood, fire or hurricane to name a few, run a special promotion for a particular product or service by promising to donate a certain amount of money associated with a customer's purchase of the advertised product or service to the RED CROSS or other non-profit organizations in an effort to help the victims.

Additionally, and in general, the manner in which a merchant sets up a selling price or charging for a product or service is a matter of desires. It is also well known in the art for a

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merchant or service provider, such as a telephone service provider or telecommunication provider, to set up a selling price for a product or service, such as a phone call, by adding a purchase price and overhead cost to a desired profit margin.

Further, the manner in which a service provider or a telecommunication provider, such as a telephone company, chooses to raise funds or make a donation to a charitable organization using the telecommunication service system is a matter of desires.

Finally, it is well established in the art that a service provider, such as a telecommunication service provider or a telephone company, to make a donation to one or more charities using a portion of the funds (revenue) collected from subscribers for making phone calls to third parties or receivers.

“Official Notice”

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above disclosure (“Official Notice”) into the Ziarno’s fund-raising system so as to expand the system by enabling users of regular analog or fixed phones and mobile devices, instead of or in addition to the remote personal computers, to interactively participate in the fund-raising activities by contributing or donating monetary amounts selected from a plurality of preset thresholds or by entering different amounts of their choosing and by permitting a service provider (telephone or telecommunication company) or data processing entity, providing the communication link or facilitating the users or subscribers to make phone calls via a telecommunication system, to donate to one or more charities (receivers) a portion of the revenue collected from the subscribers for making phone calls to one or more third

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parties/receivers (charities), thereby significantly increasing the number of donors or subscribers participating in the fund-raising activities, over the computer network and telecommunication network, by pledging or donating money to their charities using their existing communication devices such as analog or mobile devices and augmenting the total amounts pledged or donated by allowing the telecommunication provider (telephone service provider) to contribute to the fund raising activities by donating to one or more charities (receivers) a portion of the revenue collected from the subscribers when making phone calls to one or more third parties/receivers (charities), while the service provider is able to advertise his involvement in the fund raising activities to lure or bring more prospective users to the telecommunication network and project a good PR (Public Relation) in the community.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US PGPub 2002/0049816 discloses a fundraising system and method that allows users to raise money from friends and other entities over a distributed network, such as the Internet, is presented. The present invention provides online marketing applications for e-businesses by using the power of viral marketing to enable clients to attract new customers at a lower cost, and build brand loyalty. For example, the fundraising system of the present invention enables e-businesses to partner with causes, such as charitable, non-profit and community organizations, to host fundraising events online with interactive participation by all involved. For example, an e-mail networking component may enable fund-raisers to send out an infinite amount of requests



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supporting the cause they care about. Thus, for every fund-raiser, the host e-business gets a new flow of visitors to their site.

USP 2005/0240433 to Schwartz discloses a system and method for efficiently conducting a fundraising campaign over a wide-area network. In accordance with the invention a method for conducting an efficient fundraising campaign by an organization over a wide-area network includes the steps of hosting a website including a plurality of linked web pages, the website soliciting potential donors to make a charitable contribution to the fundraising campaign, registering, by the donors, on the website, making a charitable donation on the website, contacting third parties via email messages soliciting charitable donations, and providing one or more reports, on the website, including information on the status of the fundraising campaign. The method further comprises the step of contacting third parties, via email messages, to provide information about one or more teams participating in a competition associated with the fundraising campaign. The method further comprises the step of providing information, in the reports, about the third parties that have been contacted via email messages. The method further comprises the step of providing, in the reports, a real time status of the fundraising campaign, and wherein the real time status provide a convenient means for monitoring the progress of the campaign. The method further comprises the step of joining a team, on the website, to participate in the fundraising campaign. The method further comprises the step of forming a new team, on the website, to participate in the fundraising campaign. The method further comprises the step of recruiting new team members by email messages.

USP 2001/0026609 to Weinstein discloses a method and apparatus for facilitating web-initiated communication by telephone, providing for both anonymous and non-anonymous

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communication, which allows users to contact each other through a trusted central connecting facility provides breakthroughs in personal control, privacy, and safety for people communicating over the telephone. All calls are incoming calls, both to callers and call recipients. Users may control what time windows they can receive calls from other users, on an individual basis. Billing for professional services delivered over the phone may be done automatically through the call delivery system. Both one-to-one and group calls are provided. An auction feature allows customers to bid for phone time with desired personalities. Calls may be scheduled to happen automatically at pre-arranged times. Use of PIN codes prevents unintended recipients from receiving a call. Users may generate temporary contact number cards which can be given out to people they meet, such that calling access will be controllable and traditional contact information (such as phone number and address, full name, etc.) can be kept private. Users may sign up for paid accounts or free accounts. Free accounts may only receive calls and make collect calls. Applications include dating websites, on-line greeting cards with a phone call contained, phone connection during on-line chat, customer service, time-controlled phone contact for on-line auctions, supplemental long-distance and international calling, and **fund-raising**.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

04/14/07

JDJ

Jean D. Janvier

Patent Examiner

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JEAN D. JANVIER  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Jean D. Janvier", is written over the printed name and title.